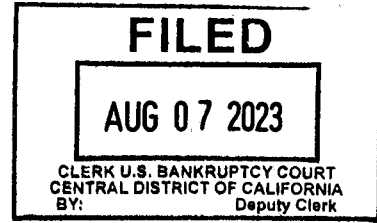


1 Andrew Hanna
2 1900 Main Street, Suite 315
3 Irvine, CA 92614
4 Telephone: (949) 874-5068

5 Andrew Hanna, CEO
6 Global Premier Development, Inc.
7 1401 21st Street, Suite R
8 Sacramento, CA 95811
9 e-mail: andrew@globalpremierdevelopment.com



10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **NORTHERN DIVISION**

13 In re:

14 GLOBAL PREMIER REGENCY PALMS
15 OXNARD, L.P., a California limited
16 partnership,

17 Debtor and
18 Debtor-in-Possession

Case No. 9:22-bk-10626-RC

Chapter 11 Proceeding

**ANDREW HANNA'S JOINDER TO ST.
GEORGE CONSTRUCTION INC.'S
OPPOSITION TO DEBTOR'S MOTION FOR
ORDER: (1) APPROVING COMPROMISE OF
CONTROVERSY WITH JKO GROUP, INC.
AND (2) DISMISSING CHAPTER 11 CASE**

DATE: August 8, 2023

TIME: 2:00 p.m.

PLACE: Courtroom 201
1415 State Street
Santa Barbara, CA 91301

19 Andrew Hanna, personally, and as president and CEO of creditor, Global Premier
20 Development, Inc. (GPD) joins in St. George Construction Inc.'s Opposition [docket # 96]
21 to *Debtor's Motion for Order: (1) Approving Compromise of Controversy with JKO*
22 *Group, Inc., and (2) Dismissing Chapter 11 Case* filed by Global Premier Regency
23 Palms Oxnard, L.P., debtor and debtor-in-possession.
24
25
26
27
28

1 The Debtor is a California limited partnership, whose general partner is Global
2 Premier America #3, LLC. Global Premier America LLC is a member of the GP.

3
4
5 On or about March 23, 2020, the Debtor entered into a loan (Loan) with Nano
6 Banc in the original principal amount of \$23,000,000.00. Hanna executed a Commercial
7 Guaranty of the Loan dated March 23, 2020. On or about April 22, 2022, Nano sold and
8 assigned the Loan to JKO. As a result, Hanna is allegedly a guarantor of the Loan now
9 held by JKO. Hanna is also the president and CEO of GPD, the holder of certain
10 undisputed scheduled claims against the Debtor's estate.

11 Hanna and GPD join St. George's Opposition in its entirety. And in particular,
12 Hanna and GPD want to add to the opposition as follows:

13 1. The compromise improperly overstates the allowed amount of JKO's claim.
14 As stated in St. George's Opposition:

- 15 a. The Motion provides no detail as to how the JKO claim is calculated.
- 16 b. Fixing the JKO Claim in the amount of \$30,489,629.27 is excessive and
17 improperly include default interest on the entire principal balance of the
18 loan, even though the such loan has not fully matured, which is contrary to
19 established California law. See California Civil Code § 1671(b); *Garrett v.*
20 *Coast & Southern Fed. Sav. & Loan Assn.*, 9 Cal.3d 731 (1973); *In re 8110*
21 *Aero Drive Holdings, LLC*, 2017 WL 2712961 (Bankr.S.D.Cal. 2017),
22 *Honchariw v. FJM Private Mortgage Fund, LLC*, 299 Cal.Rptr.3d 819, 824
23 (2022).
- 24 c. The proposed allowed claim improperly includes both default interest and
25 late fees, which is duplicative and improper. See *Matter of Terry Ltd.*
26 *P'ship*, 27 F.3d 241, 244 (7th Cir. 1994) ("[W]here the contract already
27 provided that the creditor would be entitled to late fees stemming from the
28 debtor's default. A higher default rate of interest would have in effect

1 enabled the creditor to recover twice for the same losses.”); *In re Clifftondale*
2 *Oaks, LLC*, 357 B.R. 883, 887–88 (Bankr.N.D.Ga.2006) (“[T]he late charge
3 and the default interest rate are both intended to compensate the secured
4 creditor for the increased administrative costs incurred upon the debtor's
5 default, and, therefore, payment of both default interest and a late charge
6 would represent a double recovery.”).

7 As an alleged guarantor of the Loan now held by JKO, Hanna is prejudiced by the
8 compromise that purports to allow an overstated claim in favor of JKO. In light of the law
9 cited in St. George’s Opposition, the Court should independently assess the allowed
10 amount of JKO’s Claim, or alternatively, Hanna should not be bound (as a purported
11 guarantor) by the allowed amount of JKO’s Claim set forth in the compromise.

12 2. Hanna also objects to the other provisions of the compromise that further
13 inflate JKO’s claim to the prejudice of Hanna, such as the allowance of usurious interest.
14 The compromise provides for the accrual of principal and interest at the non-default rate
15 in the amount of \$152,921 per month, **plus default interest** of approximately \$110,000
16 per month, for a total of \$263,000 per month. Thus, the compromise provides for interest
17 that is approximately **3 times** the present monthly payment amount. The interest rate
18 demanded by JKO as part of the compromise is substantially higher than the interest rate
19 provided under the terms of the original Loan, which is the subject of Hanna’s Guaranty.
20 These artificially inflated accruals are extremely unreasonable, and prejudice Hanna as a
21 guarantor.¹ This combined interest rate is usurious and in violation of California law.
22 “California has a strong public policy against usury, that is, the charging and receiving
23 interest on the loan or forbearance of money in excess of the rate allowed by law.” G

24
25
26 ¹ “It is true that where a promissory note is given for a usurious loan, the vice of usury
27 may be asserted by the guarantor of the note as well as by the maker.” *Sosin v.*
28 *Richardson*, 26 Cal.Rptr. 610, 614, 210 Cal.App.2d 258, 266 (1963) citing *Martin v. Ajax*
Const. Co., 124 Cal.App.2d 425 (1954). See also *In re Dominelli*, 820 F.2d 313, 318 (9th
Cir. 1987) (citing *Sosin*, “one who stands in the shoes of the original borrower and is
injured by the usurious interest rate may also assert the usury defense.”)

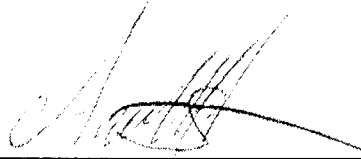
1 Companies Management, LLC v. LREP Arizona, LLC, 304 Cal.Rptr.3d 651, 660, 88
2 Cal.App.5th 342, 354 (2023). The Court should not approve a compromise that allows
3 JKO to accrue usurious interest, or alternatively, Hanna should not be bound (as a
4 purported guarantor) by the excessive accrual of interest set forth in the compromise.

5 3. Hanna and GPD also join St. George's Opposition, that JKO's overreaching
6 control over the Debtor's budget and working capital is unreasonable. The Debtor is
7 confined to a very strict budget, leaving all discretion to JKO as to whether the Debtor
8 can exceed budgeted expenses. Restricting the Debtor to a working capital limit of only
9 \$150,000 on a business that incurs approximately \$250,000 per month is simply
10 inadequate. It is customary in this industry, and the Debtor should be able, to maintain a
11 working capital balance of at least twice its operating expenses, or **\$500,000**.

12 Based upon the foregoing, Hanna and GPD join St. George's Opposition and
13 respectfully requests that the Court approve the Motion, but only if the compromise is
14 modified to eliminate the unreasonable terms that are prejudicial to Hanna and other
15 creditors.

16 DATED: July 31, 2023

17 By: _____

18 
19 Andrew Hanna, personally, and as president &
20 CEO of Global Premier Development, Inc. & CEO
21 of Global Premier America LLC
22
23
24
25
26
27
28